

HOUSE JOINT RESOLUTION 795

By Sparks

A RESOLUTION to condemn private, user-funded probation statewide and urge the adoption of evidence-based probation models.

WHEREAS, the United States Constitution, as stated in *Bearden v. Georgia* and other cases throughout our history, clearly prohibits the government from restricting a person's liberty solely because of the person's poverty; and

WHEREAS, probation conditions and supervision constitute such restrictions on individual liberty; and

WHEREAS, today, across Tennessee, thousands of individuals are serving probation sentences that are administered by private companies, which are user funded in that they depend, for their continued existence, on user fees from the supervised individuals; and

WHEREAS, across Tennessee, many individuals are never asked whether they can afford these user fees or other court-imposed financial obligations, but are informed that they could be arrested or have their probation revoked if they do not make monetary payments; and

WHEREAS, probationers' belief that they will be arrested, have their probation revoked, and be jailed if they do not make monetary payments makes probationers face a stark choice to either forgo basic necessities, including groceries, childcare, transportation, medical care, and rent, or face devastating consequences that include incarceration and extended periods of government supervision; and

WHEREAS, user-funded, private probation creates perverse incentives that undermine Tennessee's policy goals, turning probation into a debt-collection scheme that impedes self-sufficiency and rehabilitation; and

WHEREAS, extensive evidence shows that many probation companies, operating under these perverse incentives, are engaged in abusive, exploitative, and unconstitutional practices, including threatening and seeking arrest, jailing, and probation revocation and/or extension solely for nonpayment; invasive, humiliating, and unreliable drug tests; and onerous reporting requirements, simply to extract fees and thereby maximize their profits; and

WHEREAS, user-funded, private probation is fueling jail overcrowding and the widespread criminalization of poverty, impeding Tennessee residents from holding jobs, accessing needed treatment, and supporting their families; and

WHEREAS, unpaid court debts lead to driver license suspensions that prevent people from attending church and school, driving safely and legally to work, and building financial self-sufficiency; and

WHEREAS, counties and the State of Tennessee often fail to oversee probation companies adequately, allowing these abusive, exploitative, and unconstitutional practices to continue unchecked; and

WHEREAS, rigorous research shows that the vast majority of people serving probation sentences, especially in the misdemeanor context, do not benefit from supervision and, in fact, suffer worse health and employment outcomes when placed under too much supervision; and

WHEREAS, each year, Tennessee spends millions of dollars on arrests, supervision, and incarceration that actually make Tennessee residents less safe, less prosperous, and less healthy; these dollars could be used to fight the opioid epidemic, create job opportunities, improve public transportation, expand access to behavioral health, create affordable housing, and otherwise ensure all Tennessee families a pathway to opportunity and financial self-sufficiency; and

WHEREAS, alternative models of probation, including models that avoid user fees and rely on restorative principles, have had substantially more success at promoting successful rehabilitation; and

WHEREAS, a resource shift to community-based supports, including investments in employment and behavioral health, and adoption of alternative, restorative models of probation would most efficiently utilize taxpayer dollars and keep Tennessee families safe; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED ELEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the State of Tennessee condemns the use of private, user-funded probation and urges the adoption of evidence-based probation models that maximize rehabilitative goals and avoid exacerbating the cycle of poverty.